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INTER ARMA CARITAS

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The function of the laws of war in peacetime

by **Henri Meyrowitz**

Several provisions of the 1949 Geneva Conventions and of Protocol I of 1977 stipulate, expressly or implicitly, that the respective Contracting Power must implement them as soon as said instruments enter into force, that is already in peacetime. This is the case, in particular, of the articles common to the four Geneva Conventions concerning the widest possible dissemination of the text of the Conventions¹ and the obligation of the Contracting Parties to communicate to one another the official translations of the Conventions, as well as the laws and regulations they adopt to ensure the application thereof.²

Protocol I increased the number of provisions requiring measures to be taken in peacetime. Thus under Art. 80, the Contracting Parties must "*take without delay all necessary measures for the execution of their obligations under the Conventions and this Protocol*", including, of course, the obligations which are applicable only in armed conflict. Paragraph 2 of the same Article stipulates that the Parties "*shall give orders and instructions to ensure observance of the Conventions and this Protocol, and shall supervise their execution*". Although the text does not specify that such orders and instructions must be enacted in peacetime, it seems obvious that compliance with the Conventions and the Protocol—at least with

¹ First Convention, Art. 47; Second Convention, Art. 48; Third Convention, Art. 127; Fourth Convention, Art. 144.

² First Convention, Art. 48; Second Convention, Art. 49; Third Convention, Art. 128; Fourth Convention, Art. 145.

their main provisions—can be effectively ensured only if appropriate instructions are given in peacetime. This also applies to the obligation set forth in Art. 43 (1) that the armed forces must be subject to an internal disciplinary system which “*inter alia, shall enforce compliance with the rules of international law applicable in armed conflict*”. Art. 82, which provides that the Contracting Parties “*shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces on this subject*” stipulates that the Contracting Parties must implement it “*at all times*”.³ Art. 83 and 84 correspond to the two above-mentioned articles common to the four Conventions. Finally, although the important Art. 36 relative to new weapons—this article will be considered below—does not specify its temporal scope of application, it is meant primarily for peacetime.

However, these provisions (except Art. 36) are not what we have in mind when we talk of *the purpose of the laws of war in peacetime*. We are trying to answer the following questions: what purpose do the laws of war serve in peacetime? What is their value in the absence of war? Their provisions regulate the conduct of the *belligerents*, which does not mean that they are applicable only if and when an armed conflict occurs, for the laws of war are not a set of sealed orders meant only to be opened on D-Day.

In peacetime, too, they fulfil an important dual function: first, in anticipation of a potential armed conflict, and secondly, outside such prospect.

I. – THE FUNCTION OF THE LAWS OF WAR IN ANTICIPATION OF A POTENTIAL ARMED CONFLICT

1. Art. 36 of Protocol I sets forth, or rather repeats, a principle of great significance which, however, only partially conveys the

³ See Resolution 21 adopted by the 1974-1977 Diplomatic Conference and inviting the signatory States “*to take all appropriate measures to ensure that knowledge of international humanitarian law applicable in armed conflict, and of the fundamental principles on which that law is based, is effectively disseminated*”, particularly by encouraging the authorities concerned to plan and give effect to arrangements to teach international humanitarian law and by undertaking in peacetime the training of suitable persons to teach international humanitarian law.

even more important principle which underlies it. Under the heading "New weapons"—which is too restrictive in relation to its bearing—Art. 36 states: "*In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party*".

The article very appropriately reminds governments, chiefs of staff, members of parliament and the public in general, of two facts: firstly, that the laws of war are binding on States not only in the event of an armed conflict and for the duration thereof, but also and already in peacetime; secondly, that the provisions of the laws of war overrule military technology both in peacetime and in war. One can even say that as regards research, development, production and deployment of new means of warfare, the main temporal scope of application of the law of war is peacetime. In other words, although Art. 36 has no influence on the distinction and the normative separation of arms control and deterrence on the one hand and the laws of war on the other, it applies "retroactively" to peacetime.

Nowadays, the principle of the precedence of political over military concerns is generally recognized as a condition *sine qua non* for any attempt at civilising, i.e. regulating war at international level. But there is a growing risk of this principle being undermined by the material, financial and political ascendancy of armament research and technology, whose influence extends both upwards to political decision-makers, and downwards to military strategists. In other words, research and technology are tending to impose their own dictates on *strategy*, which belongs in the realm of political power, and on *military or operational strategy*, which is the purview of the chiefs of staff.

In form, Art. 36 is an innovative provision. In content, it enounces a provision commanded both by common sense and by the rule of interpretation of treaties called "the principle of useful effect", which declares inadmissible the interpretation of a treaty (and consequently an act carried out in accordance with that interpretation) whereby an international obligation entered into under that treaty is rendered ineffective.

Not only the States party to Protocol I are under the obligation to ask themselves—and endeavour to answer as objectively as possible—the question whether the *use* of a new means or method

of warfare is prohibited or restricted by the provisions of the Protocol or any other rule of the laws of war. The same obligation is incumbent *de lege lata* on the Powers which are not party to Protocol I; they, too, must examine this question in the light of the laws of war, including those *reaffirmed* by Protocol I.

Here, the importance of *language* can never be stressed enough. The fact that Protocol I explicitly defines the parameters for analysis of this question confers upon the written laws of war an invaluable advantage over the customary rules and general principles of the laws of war, not to mention moral standards. Language obviously is no guarantee for an objective analysis; but without it, the analysis would be impossible. It is thanks to language that the laws of war can fulfil their educational purpose, both in peacetime and in times of war, provided that governments properly discharge their obligation to “*disseminate the Conventions and this Protocol as widely as possible, in time of peace as in time of armed conflict*”.

Art. 36 is silent as to the conclusions governments must draw if their analysis of legality shows that the use of a new weapon is prohibited, either under certain circumstances or at all times, by the laws of war. Nor does it place a government under any obligation to abandon the development, production or deployment of the weapon concerned. In other words, neither Art. 36 nor any other rule of international law—except the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on their Destruction, of 10 April 1972⁴—prohibit the introduction of a new arms system, the analysis of which has shown that its actual use would be prohibited *de lege lata*, or would be lawful only with certain restrictions. But it goes without saying—and therein lies the true significance of Art. 36—that a government must take the results of such analysis into account already in peacetime when devising and formulating its strategic plans. However the fact remains that

⁴ The Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques, of 10 December 1976, does not refer to any specific type of weapons, but to “*any technique for changing—through the deliberate manipulation of natural processes—the dynamics, composition or structure of the earth*”. Such techniques are included in the notion of “new weapons” of Art. 36. But the Convention prohibits only the “military or any other hostile use” of these techniques. Not only does it not prohibit the study, development or adoption of such techniques, but it also expressly stipulates that its provisions “*shall not hinder the use of environmental modification techniques for peaceful purposes*”. It is beyond doubt that this Convention is covered by the phrase “*or by any other rule of international law applicable to the High Contracting Party*” of Art. 36, *in fine*.

should the analysis of legality prove negative, the conclusion the government must draw is likely to be coloured by two factors: first, the possibility of *reprisals*, insofar as they are still licit,⁵ and secondly, especially for the super-powers, the motive of *deterrence*.

A government may deem it advisable—and international law, apart from the above-mentioned Convention, does not forbid it to do so—to equip itself with weapons whose first use is prohibited, but which it knows or suspects its potential enemy is equipped with. From the viewpoint of the laws of war, the usefulness of having such weapons is restricted to the hypothesis of reprisals in kind. Their deterrent value—apart from the significant deterrent effect of potential reprisals in kind—is virtually nil, or at least very minor, since one of the prime elements of deterrence is *publicity*. Not only are the possession and deployment of deterrents displayed ostentatiously before the potential enemy, but their rôle in the strategic plans of the government which owns them or of the alliance which it heads is repeatedly proclaimed (“declaratory strategy”; “deterrent threat”). Just as the big powers have hitherto strictly refrained from including chemical weapons—the use of which is prohibited by the Geneva Protocol of 17 June 1925, but which they stockpile quite lawfully—in their deterrence strategy, possibly to be able to use them in legitimate self-defence against an attack with conventional weapons, it is hardly conceivable that a government should decide to use as a deterrent new weapons whose first use is shown by an analysis of their legality to be prohibited in any event, or under certain circumstances. In any case, the main thing is that should a government decide to include in its arsenal weapons which it would be prohibited from using, such weapons would have to be labelled “first use prohibited under all circumstances whatsoever” or “use allowed only under the following circumstances:...”.

2. As previously mentioned, Art. 36 is an application of a broader principle: *the principle of subjection of strategy to the rules of the law of armed conflict, in time of peace as in time of war*. Both at government level—where defence policies and overall strategy are devised—and at general staff level—where operational plans

⁵ Protocol I prohibits attacks by way of reprisals against the civilian population or civilians [Art. 51 (6)], civilian objects [Art. 52 (1)], cultural objects and places of worship (Art. 53), objects indispensable to the survival of the civilian population [Art. 54 (4)], the natural environment (Art. 55), the works and installations containing dangerous forces or the military objectives mentioned in paragraph 1 of Art. 56 [Art. 56 (4)].

are formulated—strategists must take into account the prohibitions and restrictions laid down by the laws of war with which their states have undertaken to comply. Should a government, in its war plan—one should not shy at the term: the laws of war *presuppose* a violation, by one of the Parties to the conflict, of the prohibition to use force (see Preamble, paragraph 2, of Protocol I); they therefore also presuppose the aggressor to have a war plan and the potential victim of the aggression to have, in peacetime, practically and very legitimately, a plan for a defensive war—provide for or allow the use of methods or means of warfare, whose first use is prohibited, to be included in the operational plans drawn up by its general staff, it would in peacetime be committing a grave breach, regardless of whether such government is the potential aggressor or the potential defender.

From a legal point of view, though, it is difficult, or even impossible, to define this breach. It is not a war crime, which can only be committed in wartime in effective violation of a prohibition laid down by the laws of war.⁶

It is not an international crime or offence under the provisions of international law applicable in peacetime (except for breaches of the 1972 Convention on Biological Weapons). In this respect, an analogy with criminal law is permissible. In most municipal criminal law systems, *premeditation* and *preparation* are statutory offences only in very exceptional cases. Art. 6, final paragraph, of the Charter of the International Military Tribunal stipulated that “*Leaders, organisers, instigators, and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan*”. This provision was based on the fact that the “common plan” for crimes against peace, war crimes and crimes against humanity had been *implemented by acts of war*. It should be noted that the Nuremberg Tribunal was extremely reserved towards the notion of “*common plan or conspiracy*” and that when it dealt with this charge, it actually restricted the scope suggested by the French version of that paragraph: it simply ignored the concepts of *common plan* and *conspiracy*, and applied the rules of common criminal law relative to complicity in a criminal act. It must therefore be concluded that

⁶ Consequently, the question of criminal liability for the execution of orders in violation of the laws of war cannot arise in peacetime, whether at national or international level.

neither devising and drawing up a strategic plan incorporating the use of weapons whose first use is banned, nor the acts performed in peacetime—deployment, training, etc.—with a view to its implementation, but only the actual execution of such a plan by committing acts of war engages the criminal liability of political or military leaders who participated in the formulation of the plan and helped with peacetime preparations to put it into effect.

The adoption, in peacetime, of a strategy involving first use of a means of warfare prohibited by positive law would nonetheless constitute a grave misdeed. It would be a grave misdeed because the strategic decisions taken in peacetime are momentous, owing to the consequences their material application will have. For obvious reasons, the arsenal constituted in peacetime—which, in the case of the great powers, largely consists of weapons stockpiled in anticipation of potential *reprisals* or as *deterrents*—carries the strong risk of irreversibly predetermining the course of operations in the event of a conflict, so that weapons intended for reprisals would be used *before* the contingency arose, and those stockpiled as deterrents would be launched *afterwards*, when their object and the legal justification for their use had become meaningless. The *raison d'être* of Art. 36 of Protocol I is to avert that risk by preventing strategic plans from being conditioned, in peacetime, by the pressure of military technology and the real, suspected or alleged necessities of deterrence, without consideration of whether or not the armaments adopted are compatible with the rules of the laws of war.

3. In recent years, the question as to the *relationship between strategy and ethics* has frequently been raised in the West, the term strategy being used to denote deterrence, war plans and operational plans, i.e. three types of strategy drawn up in peacetime. As a rule, both military strategists and civilian strategic experts maintain that ethical considerations are outside the scope of military commanders and strategists. The following quotation of a renowned American civilian strategic analyst is a typical illustration of this opinion: “*Strategists, typically, do not weigh ethical considerations in their analyses. (...) Ethical judgment is not obviously within the mandate of an individual functioning as a strategist. Decisions as to the moral acceptability of one or another policy action have to be determined by expert political decision makers in the light of the values of the whole national (and international) community*”.⁷

⁷ Colin S. Gray, *Strategic Studies. A Critical Assessment*, Westport, Conn., Greenwood Press, 1982, p. 125.

We do not intend here to discuss this opinion in its actual context, that is the relationship between strategy and ethics. Let us rather, in the above quotation, replace the adjective “ethical” by the word “legal”. Everyone can see that thus modified, the above statement is basically wrong, not only with respect to positive international law, but also to municipal law, of democratic States at least. By the above-mentioned articles of the Geneva Conventions and Protocol I, the Contracting Parties have undertaken to disseminate these instruments in peacetime too, to make them known to the armed forces and the civilian population. Furthermore, the customary rules of the laws of war concerning the repression of war crimes and the provisions of Section II, Part V, of Protocol I, provide for and regulate the *individual liability* under criminal law of the perpetrators of war crimes, be they civilians or members of the armed forces acting in a public or personal capacity. The liability, at criminal law, of members of the armed forces for giving or executing orders which violate the rules of the laws of war is also provided for in the laws or by-laws of many countries. By fulfilling their obligation to disseminate knowledge of the laws of war, states not only perform a task incumbent upon them by virtue of international law, but they also fulfil an obligation incumbent upon them by virtue of the principles of municipal law: the duty to provide protection.

But that is not all. Under the international laws of war, ignorance of their provisions does not exempt anyone from individual penal liability. The law of armed conflict makes it obligatory for all nationals, be they civilians or members of the armed forces, and indeed all inhabitants of a country at war, to know the contents of its provisions. In a war crime trial the court will no doubt, in all equity, have to take into account the actual possibilities the accused had of being sufficiently familiar with these provisions. All members of the armed forces are, however, presumed to know them; this presumption is absolute, and in the case of military or civilian authorities it applies, moreover, to the entire body of the provisions set forth in the Geneva Conventions and Protocol I [Art. 83 (2)]. It follows that those responsible for strategy must *a fortiori* be fully acquainted with the provisions of the laws of war. For this reason, before they devise, formulate or review strategic plans, they must familiarize themselves with the rules of the laws of war, in the same way as they are duty-bound—which they find quite natural—to gather all relevant material information to be taken into consideration in the formulation of their plans.

The relationship between strategy and ethics is radically different in yet another way from that between strategy and international law; this is a natural consequence of the intrinsic difference between international law and ethics.

The source and seat of ethics being individual conscience—which by nature is fallible—moral judgments are subjective, unsure, ambiguous, relative, contradictory and controversial. International law is the work—even the only joint work—of *States*: the plural is essential, and of paramount importance in the laws of war through which and within which the interests, the objectives, the individual and conflicting “reasons of State” are balanced out.

Based as they are, for want of other common values⁸ on the survival of humanity and worded in terms adopted by mutual consent, the laws of war are an objective standard set up in peacetime for the conduct of States, peoples and individuals in time of war.

II. THE FUNCTION OF THE LAWS OF WAR IN PEACETIME, BUT NOT IN ANTICIPATION OF A POTENTIAL ARMED CONFLICT

1. Besides applying “retroactively” to peacetime—an inherent characteristic of the laws of war geared to potential armed con-

⁸ It is the lack of common values—except the unformulated one which resulted in the four Conventions—which prevented the 1949 Diplomatic Conference from reaching a consensus on the terms of a preamble. See Max Huber, *Das Völkerrecht und der Mensch*, St. Gallen: Tschudi Verlag, 1952, p. 16.

Although Protocol I has a Preamble, it only propounds the value of *peace*, within the meaning of Art. 2 (4) of the Charter of the United Nations. Yet Protocol I and the laws of war as a whole presuppose a breach of peace by use of armed force (which is prohibited), a fact conveyed in the Preamble by a single word: nevertheless. As to the reasons why States believed it “necessary nevertheless” to reaffirm and develop the provisions of the laws of war (and not only those of the 1949 Conventions) and as to the values on which these reaffirmed or developed provisions are based, the authors of the Protocol were—and probably had no choice but to be—just as silent as the authors of the Conventions had been before them.

The importance of the Preamble lies in its final paragraph—one of the most significant provisions of the Protocol—which reaffirms the principle of “non-differentiation” under the laws of war, both as regards the nature or origin of a conflict (principle of equality of the belligerents, aggressed and aggressor, under *jus in bello*) and as regards the “*causes espoused by or attributed to the Parties to the conflict*”. The principle of neutrality of the laws of war, too, belongs to the rules which “retroact” on peacetime and which neither governments nor strategists have the right to ignore when they draw up their war and operational plans.

flict—their rules fulfil in peacetime a function in no way linked to a possible conflict and which, in contradistinction to the above-mentioned situations, does not involve any preparation for such a possibility.

That function of the laws of war in peacetime is linked to their rôle as a *standard of civilization*. The meaning of this term goes beyond the notion that the law of armed conflict indicates the minimum standards of civilization in a given era, as propounded by M. W. Royse⁹ who considered the minimum standards of civilization¹⁰ to be the main, if not the sole factor liable to restrict violence in war. The rôle played by the standard of civilization¹¹ in the development process of the laws of war is obvious. But it is difficult to grasp their essence if one considers them merely from their passive angle, i.e. as indicators of the state of civilization—that is from the angle of their conditionality—and disregards their intrinsic feature, i.e. their function as standardizers.

The law of armed conflict is a standard of civilization in two respects, corresponding to the two meanings of the term civilization: civilized condition or state, and the action or process of civilizing. In the first—passive—meaning, the laws of war reflect both the influence of the ambient civilization on the development of their rules—which is the only aspect considered by Royse—and the effect of that influence, namely the extent to which civilization has managed to civilize war by means of international law.

In the second—active—meaning of the term “standard of civilization”, the laws of war are considered from the angle of their civilizing function, as a body of rules governing the conduct of belligerents and combatants. Here, in an operation exactly converse to the effect of the ambient civilization on the process of creation of the laws of war, the focus of attention is the question whether and how the law of armed conflict as a means of civilizing war influences the prevailing civilization of a given era.

This question may surprise the reader. Yet it is essential, because of the intrinsic interdependence of war and civilization which reflects the most tragic aspect of human life, owing both to the acts (and their effects) of which wars consist, and to the

⁹ M. W. Royse, in *La protection des populations civiles contre les bombardements. Consultations juridiques*, Geneva, ICRC, 1930, p. 86.

¹⁰ Id., *Aerial Bombardment and the International Regulation of Warfare*, New York, 1928, p. 139.

¹¹ Georg Schwarzenberger, *The Frontiers of International Law*, London, Stevens and Sons, 1962, p. 260.

aftermath of armed conflicts. The acts: *killing and destroying* on a huge scale; but also making sacrifices, willingly or unwillingly. The aftermath: upheavals which, by changing the political face of the world, are chronicled in the *history* of nations.

These tragedies, and the manner in which they are settled, are eminently contingent upon the level of civilization. The behaviour which States have pledged themselves to adopt in war not only reflects, but also influences the state of civilization, even in peacetime. The easiest way to grasp this is to imagine how things would be if there were no laws of war, or if they existed only in a totally different form and allowed most of the acts—including the most heinous—which are prohibited by the Geneva Conventions and Protocol I. Is it conceivable that such a code for the conduct of hostilities should influence the state of civilization only at such time as an armed conflict occurs? Would it not be bound to permeate that civilization even in peacetime?

2. As a standard of civilization, the laws of war are destined to come into their own during armed conflict; but already in peacetime, the concept of that civilizational standard is and must remain inseparably linked with the concept, the “image”, of war. Never has this been so necessary as nowadays, when peace between the two super-powers is, as they themselves admit, maintained solely by stockpiling weapons automatically associated with the spectre of planetary war, and by its almost daily—and unnecessary—evocation.

In peacetime, the laws of war act as a standard of civilization by teaching us how States and peoples are to behave towards the enemy during armed conflicts. As for ordinary citizens whose activity has nothing to do with a potential armed conflict, the laws of war merely make it their duty to become acquainted, in peacetime, with their provisions. For the large majority of the population, the law of armed conflict fulfils its peacetime civilizing and educational function by making acquisition of that knowledge compulsory.

The usefulness of this effect of the laws of war is meant to come to the fore in the event of an armed conflict; but it is not restricted to the actual materialization of that eventuality. The usefulness of knowledge and understanding of the laws of war is not confined to their practical application. In the economic life of individuals and nations, reserves of goods of any kind are not only useful if the “contingency” for which they were constituted actually material-

izes, but have a function and a value independent thereof, a usefulness which continues throughout their whole existence as reserves. In just the same way, the laws of war are useful in peacetime as a standard of civilization, whether an armed conflict occurs or not.

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Synopsis V

Capture

by J. de Preux

I. BASIC RULES

- A person is *hors de combat* if:
- a) he is in the power of an adverse Party;
 - b) he clearly expresses an intention to surrender; or
 - c) he has been rendered unconscious or is otherwise incapacitated by wounds or sickness, and therefore is incapable of defending himself
provided that in any of these cases he abstains from any hostile act and does not attempt to escape (Protocol I, Art. 41).

Prohibition to refuse to give quarter

It is prohibited to order that there shall be no survivors, to threaten an adversary therewith or to conduct hostilities on this basis (Protocol I, Art. 40; The Hague Regulations, Art. 23 d).

Safeguard

- A person who is recognized or who, in the circumstances, should be recognized to be *hors de combat* shall not be made the

object of attack (Protocol I, Art. 41; The Hague Regulations, Art. 23c) as this would be regarded as a grave breach (Protocol I, Art. 85). In case of doubt whether a person is a civilian, that person shall be considered to be a civilian (Protocol I, Art. 50).

- A person who takes part in hostilities and falls into the power of an adverse Party shall be presumed to be a prisoner of war. He shall be treated as a prisoner of war even if there is any doubt as to his status as a combatant or if he is suspected of being a spy or a mercenary (Protocol I, Art. 45).

Responsibility

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them (Third Convention, Art. 12).

Fundamental guarantees

Prisoners of war and civilians must at all times be humanely treated (Third Convention, Art. 13; Fourth Convention, Art. 27).

The following acts are prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:

- a) violence to the life, health, or physical or mental well-being of persons, in particular:
 - murder,
 - torture of all kinds, whether physical or mental,
 - corporal punishment, and
 - mutilation;
- b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;
- c) the taking of hostages;
- d) collective punishment; and
- e) threats to commit any of the foregoing acts (Protocol I, Art. 75).

Prohibition of reprisals

Measures of reprisal against prisoners of war and against civilians are prohibited (Third Convention, Art. 13; Fourth Convention, Art. 33; Protocol I, Art. 51).

II. CONDUCT AND TREATMENT AT THE PLACE OF CAPTURE

Duty of commanders

Military commanders must ensure that the members of the armed forces under their command are aware of their obligations and must prevent them from committing a breach, even if such breaches result from a failure to act when under a duty to do so (Protocol I, Art. 86 and 87).

Wounded, sick and shipwrecked

The wounded, sick and shipwrecked must be collected, protected against pillage and ill-treatment and given the medical care and attention required by their condition (First Convention, Art. 12 and 15; Second Convention, Art. 12 and 18; Protocol I, Art. 10). The civilian population is permitted to assist in this (First Convention, Art. 18; Protocol I, Art. 17). At sea, neutral vessels may be appealed to (Second Convention, Art. 21). Aid societies, such as Red Cross and Red Crescent Societies, are also permitted to collect and care for the wounded, sick and shipwrecked, even on their own initiative (Protocol I, Art. 81 and 17) (also see "Identification").

The ICRC's right of initiative

The provisions of the Conventions constitute no obstacle to the humanitarian activities which the ICRC may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and civilians, and for their relief (Conventions I-IV, Art. 9, 9, 9, 10; Protocol I, Art. 81).

The dead

The exact location and markings of the graves together with particulars of the dead interred therein must be registered. The dead must be honourably interred, the graves grouped if possible according to the nationality of the deceased and marked so that they may always be found (First Convention, Art. 17) (see “Identification”).

Members of the armed forces

All members of the armed forces, whether wounded or not, who fall into the power of an adverse Party are prisoners of war (First Convention, Art. 14; Third Convention, Art. 4; Protocol I, Art. 44), even if they are serving within civil defence organizations (Protocol I, Art. 67).

Persons authorized to accompany the armed forces

If such persons fall into the power of the adverse Party, they are prisoners of war (see “Identification”) (Third Convention, Art. 4).

Occupants of aircraft in distress

No person parachuting from an aircraft in distress may be made the object of attack during his descent. Upon reaching the ground, he must be given an opportunity to surrender before being made the object of attack, unless it is apparent that he is engaging in a hostile act (Protocol I, Art. 42).

Spoils of war

Weapons, vehicles, horses, military equipment and military documents are spoils of war (Third Convention, Art. 18).

Property of prisoners

Effects and articles of personal use, including those used for clothing, for personal protection (helmets, gas masks, etc.) and for feeding, and badges, decorations and articles having above all a personal or sentimental value, may not be taken from prisoners of war (Third Convention, Art. 18).

Sums of money

Sums of money carried by prisoners of war may only be taken away from them in exchange for a receipt (Third Convention, Art. 18).

Questioning

No form of coercion may be exercised against captured persons to secure from them information of any kind whatsoever (Third Convention, Art. 17; Fourth Convention, Art. 31) (also see “Identification”).

Shelter

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone (Third Convention, Art. 19). The presence of civilians may not be used to shield, favour or impede military operations (Fourth Convention, Art. 28; Protocol I, Art. 51).

Evacuation

Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger. Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone (Third Convention, Art. 19).

Conditions of evacuation

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the captor in their changes of station. Prisoners of war who are being evacuated shall be supplied with sufficient food and potable water, and with the necessary clothing and medical attention. They must at all times be protected, also against public curiosity (Third Convention, Art. 13 and 20). In the event of an evacuation of civilians, proper accommodation must be provided to receive them, and the removal must be effected in satisfactory conditions of hygiene, health, safety and nutrition and in such a way that members of the same family are not separated. Civilians shall be transferred back to their homes as soon as hostilities in the area in question have ceased (Fourth Convention, Art. 49).

Immediate release

When persons entitled to protection as prisoners of war cannot be evacuated as provided for, they must be released immediately and all feasible precautions must be taken to ensure their safety (Protocol I, Art. 41).

As a rule, civilians who fall into the power of the adverse Party without having taken part in the hostilities are released immediately.

Retained civilians

Civilians who have taken no part in the hostilities but are retained after falling into the power of the adverse Party, are entitled to the same protection as civilians (Fourth Convention, Art. 27) which may not be inferior, at the place of capture, to that of prisoners of war.

III. MEDICAL UNITS

1. Medical personnel

Medical and religious personnel belonging or attached to the armed forces

Medical and religious personnel belonging or attached to the armed forces, including the staff of duly recognized and authorized National Red Cross and Red Crescent Societies, who fall into the hands of the adverse Party, shall be retained only in so far as the state of health, the spiritual needs and the number of prisoners of war require. They shall not be deemed prisoners of war, but shall nevertheless at least benefit by all the provisions relative to the treatment of prisoners of war. They shall continue to carry out their medical and spiritual duties (First Convention, Art. 24, 26, 28).

Medical personnel belonging to aid societies of neutral countries

If such persons fall into the hands of the adverse Party, they may not be detained. They shall have permission to return to their country, or to the territory of the Party to the conflict in whose service they were, as soon as a route for their return is open and military considerations permit. Pending their release, they shall continue to carry out their medical duties (First Convention, Art. 27 and 32).

Auxiliary medical personnel

Auxiliary medical personnel who have fallen into the hands of the adverse Party shall be prisoners of war, but shall be employed on their medical duties in so far as the need arises (First Convention, Art. 25, 29).

Return of medical personnel

Medical personnel whose retention is not indispensable shall be returned to the Party to whom they belong, as soon as a road is open for their return and military requirements permit (First Convention, Art. 30).

Medical and religious personnel of hospital ships

The medical and religious personnel of hospital ships may not be captured (Second Convention, Art. 36; Protocol I, Art. 22).

Medical and religious personnel of other ships and craft

The medical and religious personnel of other ships and craft which have fallen into the hands of the enemy shall continue to carry out their duties as long as this is necessary for the care of the wounded and sick. They shall afterwards be sent back as soon as the Commander-in-Chief considers it practicable (Second Convention, Art. 37; Protocol I, Art. 22, 23).

Medical personnel of medical aircraft

The medical personnel of a medical aircraft which has landed or alighted on water, whether ordered to do so or for any other reasons, and provided it is not committing an offence, may not be detained (Protocol I, Art. 30).

Civilian medical personnel

Civilian medical personnel may not be captured. However, the Occupying Power may, subject to certain conditions, requisition their services (Fourth Convention, Art. 57; Protocol I, Art. 14) (see below for the particular conditions).

Civilian medical personnel who have fallen into the hands of the adverse Party are covered by the provisions of the Fourth Convention.

Civilian medical personnel of international aid organizations

The provisions applicable to the medical personnel of aid societies of neutral countries also apply to the civilian medical personnel of international aid organizations (Protocol I, Art. 9).

2. Medical transports

a) Overland medical transport

Military medical vehicles

Military medical vehicles (ambulances) may be captured and may be used in any way deemed fit, on condition that the distinctive signs are removed and that the Party which captures them ensures the care of the wounded and sick they contain (Convention I, Art. 35).

Medical vehicles of aid societies

The medical vehicles of aid societies may not be captured. In exceptional cases and under certain conditions, they may, however, be subject to the right of requisition, in exchange for a receipt and subsequent payment of fair compensation (First Convention, Art. 34; The Hague Regulations, Art. 52). Should they be seized, they must be returned as soon as possible (The Hague Regulations, Art. 53).

Civilian medical vehicles

Other civilian medical vehicles may not be captured, but are subject to the right of requisition or seizure. The prerequisites for such requisition or seizure are:

- medical necessity;
- care of the wounded and sick concerned must be ensured;
- authorization by the commander in the locality occupied;

- a receipt must be given;
- return of the vehicles or payment of fair compensation (The Hague Regulations, Art. 52, 53).

Medical vehicles belonging to aid societies of neutral countries

The means of transport belonging to aid societies of neutral countries shall, if possible, be returned when the personnel of such societies is released (First Convention, Art. 32).

b) *Medical transport by sea*

Hospital ships

Hospital ships, their lifeboats and small craft, and the persons on board may not be captured (Second Convention, Art. 22, 24, 25; Protocol I, Art. 22). However, military personnel may be captured (Second Convention, Art. 14).

Medical transports

Ships chartered for the conveyance of medical equipment may not be captured (Second Convention, Art. 38).

Coastal rescue craft

Coastal rescue craft may not be captured (Second Convention, Art. 27).

Other medical ships and craft

Other medical ships and craft may not be captured so long as they are needed for the wounded, sick and shipwrecked on board (Protocol I, Art. 23).

c) Medical transport by air

Medical aircraft

A medical aircraft landing or alighting on water, whether ordered to do so or for other reasons, may not be seized, and neither may its occupants, provided it is not in breach of any prescriptions or agreements.

If it is in violation of any prescriptions or agreements, it may be seized and its occupants shall be treated in conformity with the relevant provisions of the Conventions and Protocol I.

Any aircraft seized which had been assigned as a permanent medical aircraft may be used thereafter only as a medical aircraft (Protocol I, Art. 30).

3. Hospitals and medical material

Military hospitals and similar buildings

The buildings of fixed medical establishments of the armed forces may not be destroyed. They may, however, be used for any other purpose, provided that previous arrangements are made for the welfare of the wounded and sick who are nursed in them (The Hague Regulations, Art. 23g; First Convention, Art. 33).

Material and stores of fixed medical establishments of the armed forces

Such material and stores are subject to the laws pertaining to the spoils of war, provided they are no longer required for the care of wounded and sick (First Convention, Art. 33; The Hague Regulations, Art. 53).

Mobile medical units of the armed forces

Such units and their material may be seized, and although there is no obligation to restore them, they must be reserved for the care of wounded and sick (First Convention, Art. 33).

Real and personal property of aid societies

The real and personal property of recognized aid societies, even if attached to the armed forces, shall be regarded as private property and cannot be confiscated (First Convention, Art. 34; The Hague Regulations, Art. 46).

The right of requisition is subject to the same conditions as those applicable to medical vehicles of aid societies (First Convention, Art. 34; The Hague Regulations, Art. 52, 53).

Property of authorized aid societies of neutral countries

Such property remains private property and cannot be confiscated (First Convention, Art. 34; the Hague Regulations, Art. 46).

J. de Preux
ICRC legal adviser

PREPARATIONS FOR THE TWENTY-FIFTH INTERNATIONAL CONFERENCE OF THE RED CROSS

Geneva, 14 to 31 October 1986

Pursuant to Decision No. VI of the Twenty-fourth International Conference of the Red Cross (Manila, 1981) to accept the offer made by the Swiss Red Cross to organize the next International Conference in Geneva, the relevant invitations were sent out to the members of the Conference in February of this year by the host Society.

The members of the International Conference are the duly recognized National Red Cross and Red Crescent Societies, the States party to the Geneva Conventions, the International Committee of the Red Cross and the League of Red Cross and Red Crescent Societies.

A certain number of observers—National Societies in formation and organizations interested in the issues to be dealt with by the Conference—have also been invited.

The Conference proper will take place in Geneva from 23 to 31 October 1986. From 14 to 22 October, it will be preceded by various meetings of the Movement, the General Assembly of the League of Red Cross and Red Crescent Societies, and the Council of Delegates.

The provisional programme for all meetings and the draft Agenda for the Conference proper, as adopted by the Standing Commission of the International Red Cross, are as follows:

PROVISIONAL GENERAL PROGRAMME

A. Meetings of the Movement before the Conference

From Tuesday 14 to Thursday 16 October

Preparatory meetings, working groups, commissions, etc.

From Friday 17 to Monday 20 October

Meetings of the League (Executive Council, General Assembly, etc.) according to a special programme

Tuesday 21 October

Council of Delegates

Wednesday 22 October

Special meetings

B. The Conference proper

Thursday 23 October (afternoon/evening)

Opening ceremony, first plenary meeting, reception

Friday 24 and Saturday 25 October

Meetings of Commissions

Sunday 26 October

No meetings

Monday 27 and Tuesday 28 October

Meetings of Commissions

Wednesday 29 October

No meetings, day set aside for the preparation of reports

Thursday 30 and Friday 31 October

Plenary meetings and closing session.

XXVTH INTERNATIONAL CONFERENCE OF THE RED CROSS

Provisional Agenda

OPENING CEREMONY (October 23)

Opening addresses

Solemn reading of the Fundamental Principles of the Red Cross
(The programme will be established later.)

FIRST PLENARY MEETING (October 23)

1. Election of the Chairman, Vice-Chairmen, Secretary-General, Assistant Secretaries-General of the Conference and of the Drafting Committee of the Conference on the proposal of the Council of Delegates
2. Report on the work of the Council of Delegates
3. Appointment of Conference Commissions
Commission I : International Humanitarian Law
Commission II: General Commission
4. Opening of the procedure of the election of the members of the Standing Commission of the International Red Cross
5. Report of the Chairman of the Standing Commission of the International Red Cross

SECOND AND FOLLOWING PLENARY MEETINGS (30/31 October)

1. Election of the members of the Standing Commission
2. Reports of Commissions I and II and adoption of resolutions and recommendations
3. Place and date of the Twenty-sixth International Conference

COMMISSION I: INTERNATIONAL HUMANITARIAN LAW

1. Election of the Chairman, the Vice-Chairman, the Rapporteur and the members of the Drafting Committee
2. Respect for International Humanitarian Law:
 - 2.1 Report on the activities of the ICRC including follow-up to the following resolutions of the Twenty-fourth International Conference:
III: "Application of the Fourth Geneva Convention of 12 August 1949"
IV: "Humanitarian activities of the International Committee of the Red Cross for the benefit of victims of armed conflicts"
VI: "Respect for International Humanitarian Law and for humanitarian principles and support for the activities of the International Committee of the Red Cross"

- 2.2 Report on signatures, ratifications and accessions to the Protocols Additional to the Geneva Conventions, including follow-up to Resolution VII of the Twenty-fourth Conference
- 2.3 Identification of medical transport, including follow-up to Resolution VIII of the Twenty-fourth International Conference
- 2.4 Dissemination of knowledge of International Humanitarian Law and of the Red Cross Principles and ideals, including follow-up to Resolution X and Resolution XI, "International courses on the Law of War", of the Twenty-fourth International Conference
- 2.5 Torture, including follow-up to Resolutions XIV (torture) and XV (Assistance to victims of torture) of the Twenty-fourth International Conference
- 2.6 Follow-up to other resolutions of the Twenty-fourth International Conference, in particular Resolutions V (Anti-piracy efforts), IX (Conventional weapons) and XIII (Disarmament, weapons of mass destruction and respect for non-combatants)
- 3. Tracing and family reunion:
 - 3.1 Information on the activities of the Central Tracing Agency, including follow-up to Resolutions I (Wearing of Identity discs) and II (Forced or involuntary disappearances) of the Twenty-fourth International Conference
 - 3.2 Tracing activities of National Societies
- 4. Other business

COMMISSION II: GENERAL COMMISSION

- 1. Election of the Chairman, the Vice-Chairman, the Rapporteur and the members of the Drafting Committee
- 2. Revision of the Statutes of the International Red Cross and of the Rules of Procedure of the International Conference of the Red Cross:
 - 2.1 Draft Statutes of the International Red Cross and Red Crescent Movement
 - 2.2 Draft Rules of Procedure of the International Red Cross and Red Crescent Movement

3. Revision of the regulations on the use of the emblem (follow-up to Resolution XII of the Twenty-fourth International Conference)
 4. Financing:
 - 4.1 Financing of the ICRC by governments (follow-up to Resolution XVII of the Twenty-fourth International Conference)
 - 4.2 Financing of the ICRC by National Societies (follow-up to Resolution XVIII of the Twenty-fourth International Conference)
 - 4.3 Financing of League programmes by governments through National Societies
 5. The International Red Cross and refugees, including follow-up to Resolution XXI of the Twenty-fourth International Conference
 6. ICRC/League policies in emergency situations:
 - 6.1 Nutrition policy
 - 6.2 Medical supplies
 - 6.3 Relief operations, including "Principles and Rules for Red Cross disaster relief"
 7. Development of National Societies as a contribution to national development (follow-up to Resolution XXV of the Twenty-fourth International Conference)
 8. Report from the League's General Assembly (including follow-up to Resolutions XII, XXIV and Decision IV of the Twenty-fourth International Conference)
 9. Follow-up to other resolutions of the Twenty-fourth International Conference, in particular Resolutions XIX (The role of voluntary service in the Red Cross), XX (Joint Commission for National Society statutes), XXIII (Involvement of volunteers in Red Cross community services), XXVI (the role of medical personnel in the preparation and execution of Red Cross emergency medical actions) and XXVII (International year of disabled persons)
 10. Other business.
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INTERNATIONAL COMMITTEE OF THE RED CROSS

Death of Mr. Roger Gallopin

The ICRC learnt with very deep sorrow of the death on 18 March 1986 of Mr. Roger Gallopin, honorary member and former President of the Executive Board of the institution. In him the International Committee has lost one of its most faithful and lifelong servants.

He was 27 years old when he joined the ICRC in 1936. A young Doctor of Laws and author of a thesis on the Anglo-Irish conflict, he seemed destined for a brilliant career in law. And indeed his main activity consisted initially in making preparations, with one of his colleagues, for the Diplomatic Conference for the Revision of the Geneva Conventions which was due to be held in 1940 and which the outbreak of hostilities then postponed. His subsequent career revealed his talents as an organizer and diplomat.

It was during the cataclysm of World War II that he displayed his full merit. After one year of military service, he devoted himself to the ICRC's work for the protection of victims of the war. In 1942, he was put in charge of the important division for prisoners, internees and civilians.

In 1944 he was appointed Deputy Secretary-General and in 1946 was placed at the head of the ICRC's operations with the title of Director-Delegate. In the aftermath of the war the tasks which fell to the Committee were considerable. Both in Asia and in Europe millions of prisoners were still waiting to be repatriated, millions of refugees and displaced persons were seeking homes, while new armed conflicts—often with brother fighting brother—flared up in Greece, Palestine, Indo-China and so many other places.

From 1950 to 1969, in his duties as Executive Director, Director General and then member of the Committee, he remained as ever at the hub of activities and was one of the institution's most dynamic members in Geneva, leaving his decisive mark upon it. His wisdom counted a great deal in the choices the ICRC had to make at the various turning points in its history.

In 1969, Roger Gallopin felt the need to take some rest and be less intensively involved and resigned his post of Director General, without giving up his place on the Committee. But in 1972 the President of the ICRC invited him to sit on the Presidential Council and when the ICRC was restructured he accepted the eminently active post of President of the Executive Council from 1973 onwards. This period coincided with large-scale ICRC operations in the field. At the end of 1976, after forty years of service at the highest level, he went into well-deserved retirement but continued to be a member of the Committee.

Thanks to his command of affairs and his dynamic temperament Roger Gallopin had the ability to be on hand whenever needed, to unerringly perceive essentials, to be close to his fellow staff members and delegates in the field, to encourage them, to back them and, when necessary, to restore their confidence. His forceful personality, keen sense of duty, his ability to organize and give orders enabled him to plan and accomplish great things as part of the work to which he had dedicated his strength and his ideals. All those who had the privilege of working with him or under his direction pay tribute to the loyalty, clarity of judgement and objectivity of a chief and colleague who knew how to listen to them even when he did not share their views.

With his organizational talents, he combined a great feeling for politics and a fine sense of diplomacy, evidenced by his numerous discussions and negotiations which rarely proved without avail. The post-war years were characterized by a serious re-appraisal of the Red Cross. Roger Gallopin participated to a large extent in the critical examination of the ICRC's activities during the world war and in the conferences convened to analyse them. He evaded no problems, no insinuations or attacks and knew how to defend, with greatly admired courage, the institution which was so dear to him.

A convinced internationalist, he maintained excellent contacts with various leading members of the Red Cross throughout the world, with the most diverse institutions and with the diplomatic representatives of all political persuasions. But he remained the unwavering advocate of a strictly uninational ICRC, for fear of seeing political pressure brought to bear on a purely humanitarian institution that is constantly called upon to operate amongst antagonists little inclined towards mutual understanding. It was in this spirit that he made his practical and enlightened contribution at the

International Red Cross Conference, held in Stockholm in 1948, and at all the others which followed, where he was always appreciated and respected.

A charismatic leader, an organizer and a diplomat, this warm-hearted man was one of the most effective exponents of the ICRC's humanitarian work, setting it with so much discernment on its new courses of action in the modern world.

Alexandre Hay

*President of the International Committee
of the Red Cross*

Assembly of the ICRC: Appointments and departures

The Assembly of the International Committee of the Red Cross has welcomed three new members: Mrs. Renée Guisan, Mr. Daniel Frei and Mr. Alain Rossier, while taking leave of four active members: Mr. Olivier Long and Mr. Victor Umbricht (both of whom have retired for reasons of age), Mrs. Marion Bovée-Rothembach and Mr. Gilbert Etienne.

The Assembly also granted leave of absence to Mr. Peter Arbenz in view of his new duties as the Swiss Government's delegate on refugee matters.

Mrs. Renée Guisan was born in 1933 and is a citizen of the canton of Vaud, where she received her entire education. After graduating from the Fine Arts School in Lausanne, she worked in graphic arts before going to the United States, where she lived for four years and did volunteer public health and social welfare work. From 1971 onwards, on her return to Switzerland, she became very actively engaged in activities on behalf of the elderly, in particular with the Pro Senectute Foundation. Her commitment to social work deepened with her participation in organizations such as the volunteer services association of the canton of Vaud, Pro Juventute, and, since 1977, the *Institut de la Vie* which appointed her as its international General Secretary.

Mr. Daniel Frei was born in 1940 in St Gallen. After obtaining a doctorate in history from Zurich University at the age of 24, he pursued his studies in England, at the London School of Economics and Political Science, and in Geneva, at the Graduate Institute of

International Studies, from which he graduated in 1967. In 1971, he was appointed Professor of Political Science at Zurich University. Mr. Frei is head of the Swiss Institute for International Research. In addition, he is closely associated with the work of the United Nations Institute for Teaching and Research (UNITAR), the United Nations Institute for Disarmament Research (UNIDIR), and the Club of Rome, of which he is a member. He is the author of numerous publications, in particular on East-West relations, neutrality, international co-operation and disarmament.

Mr. Alain B. Rossier was born in Lausanne in 1930. He obtained his doctorate in medicine in 1958 from Lausanne University and became a lecturer at Geneva University in 1970. He worked in many hospitals in Switzerland, France and the United States. He is a specialist in spinal cord injuries and taught this subject at Harvard University. Professor Rossier is the author of numerous publications, in particular on traumatic injuries and the rehabilitation of paraplegics. He is a member of many medical societies and President of the International Medical Society of Paraplegia.

To the four departing members the Assembly has conveyed its profound gratitude for the services they have rendered to the ICRC and the Red Cross as a whole.

The ICRC is most pleased to announce the appointment of its new members and to have enlisted their valuable services.

The Director of Operational Activities at the ICRC elected United Nations High Commissioner for Refugees

Elected United Nations High Commissioner for Refugees, Mr. Jean-Pierre Hocké resigned on 1 January 1986 as Member of the Directorate and Director of Operational Activities at the ICRC. After his departure, the ICRC Assembly modified the international structure of the Directorate, which is now composed of Mr. Jacques Moreillon, Member of the Directorate, Director General, and Mr. André Pasquier, Member of the Directorate, Director of Operations.

In the following text Mr. Alexandre Hay, President of the ICRC, pays tribute to Mr. Hocké's qualities and forceful personality.

We are at once sorry and happy that Jean-Pierre Hocké has been appointed to the post of High Commissioner for Refugees.

We are sorry because J.-P. Hocké filled an important Directorate position at the ICRC with great competence and enthusiasm, and we deeply regret the fact that he is leaving our institution.

We are happy to know that he has been appointed to a fitting post, for which his experience has thoroughly prepared him and in which he can develop his capacities to the full.

He entered the ICRC in 1968 at the time of the Biafran conflict to head the ICRC delegation in Lagos and he rapidly achieved promotion. Initially assistant to the Head of Operations from October 1968 to March 1969, he was then Head of Delegation in Beirut between June 1970 and January 1971. From February to June 1971 he was seconded to the Director of Operations before being appointed Head of Operations for a special mission to Viet Nam up to September 1971. He was Delegate General for the Middle East in 1972. In 1973, he was appointed Director of Operations and in 1982 he was made one of the three members of the collegial Directorate.

When I was appointed President of the ICRC in 1976, I found a young thirty-eight-year-old director full of dynamism and drive, responsible for ICRC operations in the field. At that time, we were working in the Territories occupied by Israel, in Lebanon, Rhodesia-Zimbabwe, South Africa, Angola and Viet Nam. Then there was the Cambodia/Thailand operation in 1979—the biggest since Biafra.

The number of conflicts and internal troubles has not ceased to increase in recent years and, at the same time, the burden of responsibility borne by the Director of Operations has become constantly heavier.

An excellent analyst of political situations, effective in action, firm in negotiations when necessary, he has the charisma essential in a leader. It is not surprising that J.-P. Hocké's strong personality did not pass unnoticed by those who were seeking a candidate to succeed Mr. Poul Hartling as head of the UNHCR.

On behalf of the Committee, I should like to express my deep appreciation to Mr. Hocké for the tremendous task he performed at the ICRC for the victims of so many conflicts of all kinds throughout the world. I wish him every success in his new activities in the service of refugees, who are also victims of tragic events of our times.

Alexandre Hay

Missions by the President of the ICRC

From 2 to 11 February, Mr. Alexandre Hay, President of the ICRC, accompanied by Mr. S. Nessi, Head of the Financing Division, visited Bahrain, Qatar and Saudi Arabia in that order.

In *Bahrain*, where he stayed until 4 February, Mr. Hay was received by Emir Issa Ben Selman Al-Khalifa and had discussions with Sheik Mohammad Ben Moubarak Ben Hamad Al-Khalifa, Minister for Foreign Affairs, Dr. Ali Mohammad Fakhro, Minister for Education (who is also President of the Bahrain Red Crescent) and with other senior staff members of the National Society.

In *Qatar* (5 and 6 February) Mr. Hay met Emir Khalifa Bin Hamad Al-Thani, H.E. Ali Ben Ahmad Al-Ansari, Minister for Labour and Social Affairs (and, at the same time, Vice-President of the Qatar Red Crescent), Mr. Khalid Bin Mohamed Al-Mana, Minister for Health, Mr. Mohamed Nour Al-Obeidli, Director of the Department of International Organizations at the Ministry for Foreign Affairs, as well as H.E. Sheik Ali Bin Jaber Al-Thani, President of the Red Crescent Society, and other people in charge of the National Society.

In *Saudi Arabia* (8 to 11 February), the President of the ICRC had discussions with Sheik Mohammad Abalkhail and Mr. Osama Fakeeh, respectively Minister and Vice-Minister for Finance and the Economy, Mr. Gaafar Allagany, Director for International Organizations at the Ministry for Foreign Affairs, and Mr. Abdul Aziz Al-Jallal, Director General of the Gulf Council for Co-operation. Contacts were also made with senior members of the National Society and, in particular, with H.E. Dr. Hamad Abdulah Al-Sugair, President of the Saudi Arabia Red Crescent.

In each of the countries visited, Mr. Hay presented an overall survey of the ICRC's activities in the Middle East to those with whom he had discussions. He stressed the need to ratify the Protocols additional to the Geneva Conventions and to disseminate knowledge of international humanitarian law, and he emphasized the increased needs of the ICRC with regard to the financing of its humanitarian work.

Mission of the ICRC Vice-President to the Far East

Mr. Maurice Aubert, Vice-President of the ICRC, went on mission from 8 to 28 February to the Far East and the Pacific which brought him to Japan, the Republic of Korea, New Zealand and Australia.

In each of the countries visited, Mr. Aubert met government officials, members of parliament and senior staff members of National Red Cross Societies. He discussed various issues of humanitarian interest with them, particularly with regard to the activities of the ICRC in the world and the ratification of the Protocols additional to the Geneva Conventions.

Saint Christopher and Nevis: Declaration of succession to the Geneva Conventions and of accession to the Protocols

Saint Christopher and Nevis deposited with the Swiss Government, on 14 February 1986, an instrument of succession to the four Geneva Conventions of 1949 and of accession to the two Additional Protocols of 8 June 1977.

According to practice and to the final clauses, the four Conventions came into effect for Saint Christopher and Nevis on 19 September 1983, retroactively the date of its independence. The two Additional Protocols will enter into force on 14 August 1986, i.e. six months after registration of the instrument of accession.

Saint Christopher and Nevis is the 163rd State party to the Geneva Conventions, the 56th State party to Protocol I and the 49th to Protocol II.

Ratification of the Protocols by Italy

The Italian Republic ratified, on 27 February 1986, the Protocols Additionnal to the Geneva Conventions of 12 August 1949, relating to the protection of victims of international armed conflicts (Protocol I) and non-international armed conflicts (Protocol II), adopted in Geneva on 8 June 1977.

This ratification was accompanied by statements of which the original text is reproduced hereafter.

Pursuant to their provisions, the Protocols will enter into force for the Italian Republic on 27 August 1986.

This is the 57th State to become party to Protocol I and the 50th to Protocol II. It is the seventh State to have made the optional declaration accepting the competence of the International Fact-Finding Commission (cf. Article 90 of Protocol I and relevant declaration below).

Italian Statements made at the time of ratification of the Additional Protocols to the 1949 Geneva Conventions

It is the understanding of the Government of Italy that the rules relating to the use of weapons introduced by Additional Protocol I were intended to apply exclusively to conventional weapons. They do not prejudice any other rule of international law applicable to other types of weapons.

The Italian Government understands, in relation to Articles 41, 56, 57, 58, 78 and 86, that the word "feasible" is to be understood as practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations.

The situation described in the second sentence of paragraph 3 of Article 44 can exist only in occupied territory.

The word "deployment" in paragraph 3(b) means any movement towards a place from which an attack is to be launched.

In relation to Articles 51 to 58 inclusive, the Italian Government understands that military commanders and other responsible for planning, deciding upon or executing attacks necessarily have to reach decisions on the basis of their assessment of the information from all sources which is available to them at the relevant time.

In relation to paragraph 5(b) of Article 51 and paragraph 2(a) (iii) of Article 57, the Italian Government understands that the military advantage anticipated from an attack is intended to refer to the advantage anticipated from the attack considered as a whole and not only from isolated or particular parts of the attack.

A specific area of land may be a "military objective" if, because of its location or other reasons specified in Article 52, its total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers definite military advantage.

The first sentence of paragraph 2 of the Article prohibits only such attacks as may be directed against non-military objectives. Such a sentence does not deal with the question of collateral damage caused by attacks directed against military objectives.

If and so long as the objectives protected by Article 53 are unlawfully used for military purposes, they will thereby lose protection.

The Government of Italy declares that it recognizes ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the Commission to enquire, as authorized by Article 90, into allegations by such other Party that it has been the victim of violations or has otherwise suffered as a consequence of breaches of the Conventions or the Protocol by Italy.

Italy will react to serious and systematic violations by an enemy of the obligations imposed by Additional Protocol I and in particular its Articles 51 and 52 with all means admissible under international law in order to prevent any further violation.

EXTERNAL ACTIVITIES

(January-February 1986)

Africa

Ethiopia

In January and February, the ICRC reduced, as planned, the level of its relief activities in Ethiopia. This reduction was made possible, on the one hand, by an increase in food supplies for the population in the northern provinces of that country affected by conflict and drought and, on the other, by more intensive activity on the part of other voluntary agencies in the area. While leaving in place the structures which would enable it rapidly to set up a large-scale assistance programme if the need were to appear in a given region, the ICRC has lowered the volume of its general relief distributions. In December 1985, 10,700 tonnes were distributed to 830,000 persons. This was reduced to 5,000 tonnes for 424,300 persons in January, and further to 2,800 tonnes for 181,000 persons in February in the provinces of Eritrea, Tigray, Wollo, Gondar and Hararge. The last three therapeutic feeding centres were closed on 16 January (Wukro), and on 16 and 27 February (Idaga Hamus and Adwa). However, ICRC medical teams continued to monitor the health of the populations living in provinces which were receiving assistance, concentrating their activities on groups of displaced persons in Eritrea (in the region between Keren and Barentu), Tigray (in the region between Aksum and Adwa and the region of Mehony), Wollo (in the region of Sekota) and Hararge (Wobera Woreda; Habro Woreda), all areas with major security problems.

Tracing activities by the ICRC and the Ethiopian Red Cross Society, resulting from the government's resettlement programme, remained blocked because the authorities had not allowed ICRC delegates to go to the areas in the west and southwest of the

country where displaced persons were being sent. However, the ICRC, in conjunction with other organizations, was able to start a programme to reunite families. The programme seeks to find the relatives of unaccompanied children by publicly displaying the children when food is distributed in Tigray and Wollo. So far about one hundred children have thus been reunited with their families.

In connection with the protection of prisoners captured in the Ogaden conflict, new steps have been taken by the ICRC aimed at repatriating the persons involved. On 27 February, two letters signed by President Hay were sent to President Barre of Somalia and President Mengistu of Ethiopia asking the two heads of State to consent to the repatriation of all the prisoners of war.

Finally, in the area of dissemination, the ICRC organized 135 lecture and debate sessions during January and February on the fundamental rules of international humanitarian law and the principles of the Red Cross. Some 80,000 persons from various segments of society took part.

Uganda

In January, the ICRC continued to carry out its activities in Uganda, operating out of both Kampala and Kasese in the southwest region of the country under the control of the National Resistance Army.

Starting on 16 January, when the government changed hands, the delegates, accompanied by a doctor and three nurses, carried out a general assessment of the situation in Kampala, in the southwest of the country, in Hoima, Masindi, Jinja, Mbale and Soroti. In the north of the country, held by troops of the former government, the ICRC was present in Arua and Gulu. Medical supplies were distributed to hospitals and dispensaries.

In February, a systematic assessment was carried out in the region north of Kampala known as the "triangle". It revealed 100,000 thousand needy civilians returning to their villages of origin. A programme to assist them in their resettlement was developed in conjunction with the National Society.

In the realm of protection of detainees, delegates began a series of visits in February to all government places of detention. They were given access, in accordance with the ICRC's normal criteria, to about 6,000 security detainees in 12 places of detention.

Chad

Following the resumption of fighting in northern Chad, the ICRC delegation in N'Djamena approached the Chad government, requesting access to all of the recently captured prisoners of war. At the same time, contact was made with representatives of GUNT ("Gouvernement d'Union Nationale de Transition") and of Libya in order to gain access to all the prisoners of war captured by them since the beginning of the conflict.

On 12 February, 14 prisoners of war of Sudanese nationality and incarcerated in N'Djamena were released and repatriated to Sudan with technical co-operation from the ICRC.

Republic of South Africa

During a brief visit to Switzerland, Mr. Roelof "Pik" Botha, the South African Minister of Foreign Affairs, was received at ICRC headquarters on 14 February by President Hay who presented a survey of the institution's activities and problems in southern Africa. Discussions centered on the difficult subject of ICRC visits to persons arrested in South Africa under the state of emergency and the case of Du Toit, the South African prisoner, who is being held in Luanda and who was visited by the ICRC for the first time on 5 February.

From 6 to 31 January, an initial training course was organized jointly by the ICRC and the South African Red Cross Society for about 30 Red Cross community organizers. The organizers will be based in the different townships and will have the task of developing the activities of the South African Red Cross Society and disseminating knowledge of the principles of the Red Cross throughout the country.

Latin America

Haiti

Two delegates based in Costa Rica went to Haiti on 28 January in order to obtain the authorities' permission to visit persons arrested during the disturbances in the country at the beginning of

1986. They travelled to various places in the north and the south of the country and to the national penitentiary in Port-au-Prince to gather information on the subject. Following the change of government, the persons detained during the disturbances were released. This was confirmed to the ICRC by the new Minister of Justice.

In addition, ICRC delegates maintained regular contact with the Haitian National Red Cross Society, in Port-au-Prince and in the country as a whole, especially concerning the setting up of a first-aid programme. On 31 January they asked the Society to remind the public of the principles of humanity, impartiality and neutrality, which form the basis of Red Cross action, and of the respect which must be shown to persons, vehicles and structures bearing the red cross emblem.

Finally, the mission to Haiti provided an opportunity to establish relations with the new authorities and to make them acquainted with the ICRC. A meeting took place on 12 February with Mr Gérard Gourgues, Minister of Justice, and on 14 February with Mr. Jacques François, Minister of Foreign Affairs.

El Salvador

In the course of the usual visits to the places of detention run by the Ministry of Justice and Defence (military garrisons and Security Corps) 165 new detainees were registered in January and 166 in February. During the same period, tracing requests from families were registered for 249 persons reported missing and/or presumed detained. On 25 February, 5 regular armed forces soldiers held by the Salvadorean opposition were handed over by the latter to the ICRC, which returned them to the military authorities.

Following operations carried out by the army in the region of Guazapa, action was taken to aid civilians who had been displaced by the army or had fled the combat zones. This action consisted of registering those persons, both with a view to their protection and to make it easier for them to find lodging (with members of their families or in accommodation specially organized by the Church). In addition, tracing requests for missing persons were processed, and family news and several groups of civilians were transferred between different places of refuge.

In January and February, 500 and 600 tonnes of foodstuffs were distributed respectively to 102,000 and 118,000 civilian victims

of the conflict. Medical consultations were given to more than 3,000 persons a month and more than 1,000 persons were given dental treatment. The ICRC continued to monitor the food situation for children and improve hygienic conditions for the civilian population (installing latrines and improving the supply of drinking water). During the period under review, however, the "sorties" by ICRC medical and relief teams into the different areas requiring assistance were restricted by military operations.

Lectures organized to acquaint the armed forces with international humanitarian law and Red Cross activities were attended by 850 persons in January and 3,590 in February.

Nicaragua

In January and February, ICRC delegates carried out visits to four regional prisons (in Chinandega, Esteli, Granada and Matagalpa) and to the "Zona Franca" prison in Managua. These places of detention were holding a total of 995 detainees eligible for ICRC protection.

In assistance activities on behalf of detainees, members of their families and civilians affected by the conflict situation, 149 tonnes of foodstuffs were distributed to 29,000 people in January, and 138 tonnes to 28,000 people in February. At the end of January, an assesment was made of the situation of displaced persons in the Río Coco region of northern Nicaragua. This region will henceforth be included in the assistance programme jointly run by the ICRC and the Nicaraguan Red Cross.

Asia

Conflict in Afghanistan

ICRC delegates continued to visit the two Soviet nationals still interned in Switzerland. One of them, who had reached the end of his period of internment, returned to the USSR on 26 February after confirming his wish to be repatriated.

Activities in Pakistan

The number of wounded admitted to the surgical hospital in Peshawar remained high (329 admissions) in January and February considering the time of year. Consequently, the number of surgical

operations performed was also very high (317 in January and 345 in February). The situation in Quetta (Baluchistan), on the other hand, remained static; 70 wounded persons were admitted in January and 42 in February. The number of operations performed rose to 123 in January before falling back to 78 in February.

The activity of the ambulance teams operated by the Pakistan Red Crescent Society with support from the ICRC and based in Parachinar, Miram Shah, Wana, Khar Bajaur and Chaman increased markedly in February. During that month, they carried out 81 evacuations (as against 64 in January) and gave first-aid to 104 wounded persons (as against 42 in January).

The rehabilitation centre for paraplegics admitted 24 new patients in January and 9 in February. At the end of February, 32 Pakistanis and 41 Afghans were being treated there. The orthopaedic workshop provided 67 war amputees with prostheses or appliances during the 2 months under review.

In addition, the ICRC continued its training programme in the area of first-aid and the dissemination of basic humanitarian rules and the Fundamental Principles of the Red Cross. The 37th and 38th first-aid courses were organized in Peshawar in January and February, while in Quetta the 10th and 11th such courses took place. Two-day courses were also held to introduce participants to basic humanitarian rules and teach them to dress wounds; there were 38 sessions in Peshawar, 15 in Quetta and 4 at the first-aid station in Chaman.

Conflict in Kampuchea

Activities in Kampuchea

In January, an 11-year-old girl, separated from her parents when she was a baby, was reunited with her family in France. This was the first time that the ICRC delegation in Phnom Penh has succeeded in arranging the reunification of a family.

In the medical sphere, the ICRC provided assistance to three hospitals in the capital. In addition, an assessment was made of the situation at the hospital in Kompong Speu.

The relief programme for orphanages was continued. In February, a delegate visited the orphanage in Kompong Speu in order to assess its needs and to supervise the distribution of relief supplies consisting of hygiene and leisure articles and construction materials.

Activities on the Khmer-Thai border

The case of some 4,000 Vietnamese refugees, who had come across Kampuchea to Thailand and been temporarily housed in a separate area of the Khmer camp known as “site 2”, was examined by a Thai commission (as was reported in the previous issue of the Review). In January and February, representatives of the United States, Australia, France and Canada—countries which might give these refugees permanent asylum—carried out their own examination of individual cases.

At the end of February, 488 persons had been granted asylum in other countries whereas there was a total of 4,527 of these refugees on the border.

Burma

The regional delegate, based in New Delhi, spent a week in Rangoon where an agreement was signed on the details of the programme for amputees being carried out jointly by the Burma Red Cross Society, the Ministry of Health and the ICRC at the hospital for the handicapped in Rangoon. Three ICRC specialists are training Burmese staff in physiotherapy and the making of prostheses.

Indonesia

In February 1985, the ICRC was officially approached by the Indonesian and Portuguese authorities to organize the repatriation of former Portuguese functionaries in East Timor. The details were discussed during 1985 and the first two repatriation operations took place in January and February 1986; 57 persons have left East Timor for Lisbon.

Middle East**Lebanon**

Following the heavy fighting which broke out in East Beirut on 13 January, the ICRC reinforced its personnel on the spot by sending two delegates and two additional nurses, and opened

emergency offices in Archrafieh and Antelias. It was thus possible to meet the most urgent medical needs. While the wounded were evacuated by Lebanese Red Cross workers, ICRC nurses regularly visited the hospitals, dispensaries and Lebanese Red Cross first-aid stations to distribute medical supplies. To meet major blood needs, 244 units provided by the Swiss Red Cross were forwarded to hospitals in Beirut by the Lebanese Red Cross. These hospitals also received from the ICRC the equipment necessary for bleeding donors, blood typing and performing transfusions.

During the same period, the ICRC provided relief supplies (blankets, foodstuffs and cooking utensils) to civilians who had been displaced or isolated by the events in East and West Beirut, the Upper Metn, Souk el Gharb and in the north of the country. A large part of these relief supplies was distributed by local sections of the Lebanese Red Cross while the ICRC came to the aid of civilians trapped by the fighting. In order to reach them it was necessary first to negotiate ceasefires with the parties to the conflict.

From 17 to 22 February, Israeli forces carried out a search operation in Southern Lebanon after two of their soldiers had been taken prisoner. After obtaining the consent of the different parties to the conflict, ICRC delegates went to villages where the population required relief supplies or medical treatment. In conjunction with the Lebanese Red Cross, the ICRC evacuated eleven wounded, 43 sick persons, 12 children and elderly civilians, and the mortal remains of 5 persons.

During January and February, the ICRC distributed standard medical kits worth some 80,000 Swiss francs and other medical supplies worth some 90,000 Swiss francs to Lebanese hospitals and dispensaries. In addition, standard medical kits and other medical supplies worth some 25,000 Swiss francs were handed over to the Lebanese Red Cross. During the same period, relief supplies were distributed to some 12,000 persons.

The Tracing Agency offices exchanged 2,862 family messages and registered six tracing requests in January and February.

The ICRC continued its orthopaedic activities at the centres in Beit Chebab, Sidon, Damascus and in the workshop at Hammana run by a Dutch team assisted by an ICRC orthopaedic technician.

During January and February, 43 prostheses and 26 orthopaedic appliances were manufactured. Orthopaedic consultations were also given during this period at Mreije (in the southern suburbs of Beirut) and at Falougha (Upper-Metn).

Conflict between Iraq and Iran

In January and February, the ICRC continued its visits to Iranian prisoners of war. However, it has not received permission from the Iranian authorities to resume its protection activities on behalf of Iraqi prisoners of war, which were suspended by Iran on 10 October 1984.

From 13 January to 10 February, ICRC delegates in Iraq visited 9 camps and 4 hospitals where they saw 9,847 Iranian prisoners of war and registered 27 new Iranian prisoners of war. In the course of that complete series of visits, books and leisure items worth 232,000 Swiss francs were distributed to the prisoners.

In January and February, 89,601 family messages between Iranian prisoners of war and their families, and 187,187 family messages between Iraqi prisoners of war and their families were exchanged.

In addition, ICRC delegates visited the military hospital in Tamuz on 10 January where they saw 97 former Iraqi prisoners of war, who had been repatriated by the ICRC in co-operation with the Turkish Red Crescent Society on 15 December 1985. From 16 to 20 February, ICRC delegates visited Iranian civilians from Khuzistan, interned in the Missan region. There the delegates passed on 1,200 family messages from Iran.

People's Democratic Republic of Yemen

After fighting broke out on 13 January in the People's Democratic Republic of Yemen, the ICRC offered its services to the competent authorities with the aim of providing protection and assistance to the victims. On 27 January, the ICRC was authorized to send a team. The next day, 4 delegates, one of them a doctor, arrived in the capital of South Yemen from Djibouti, from where a team which had arrived on 20 January provided them with logistic support until 26 February. The ICRC team in Aden was steadily reinforced until it comprised 17 members.

The first medical team (a medical co-ordinator and a surgical team) arrived in Aden on 28 January. It was replaced on 4 February by a team of 4 persons from the Swedish Red Cross which performed, together with local staff, 29 operations at the Al-Gumhuriyah hospital in Aden. Visits were carried out to 15 other hospitals in the districts of Aden, Lahej and Abyan in order to find

serious cases requiring transfer to the Al-Gumhuriah hospital and to deliver emergency medical supplies in accordance with needs. At the request of South Yemen surgeons, courses were given in war surgery, anaesthesia and the external reduction of fractures. Beginning on 5 February, a physiotherapist helped to draw up a rehabilitation plan for the wounded and gave courses on post-operative physiotherapy and treatment for hemiplegics and paraplegics.

An ICRC team specialized in environmental health endeavoured to ensure the supply of drinking water and organize the cleaning of buildings and fresh-water springs in the areas affected by fighting. All of the equipment necessary for carrying out this task was handed over to the South Yemen authorities, and a course on hygiene and the protection of fresh-water springs was given. By mid-February, most of the problems relating to pollution of drinking water had been solved.

As regards the activities of the Tracing Agency, ICRC delegates made an assessment of needs in conjunction with the Red Crescent Society of the People's Democratic Republic of Yemen. By the end of February, about 60 persons had received information on close relatives, and Red Cross messages had been exchanged. The government of South Yemen gave the National Society the task of gathering information on who had been killed during the events. The ICRC provided assistance in this task.

By the end of February, standard medical kits and other medical supplies worth a total of 100,000 Swiss francs had been distributed.

MISCELLANEOUS

Council of Europe resolution on ICRC activities

*At the suggestion of several parliamentarians in the Council of Europe, the Council's Parliamentary Assembly unanimously adopted, in June 1984, a resolution ("Resolution 823") on ICRC activities which invited the governments of the 21 member states * to take a certain number of measures to increase support for the ICRC. Following this resolution, the full text of which is reproduced below, the ICRC has been in frequent contact with the member countries of the Council of Europe and several countries have already agreed to increase their support, especially contributions to its regular budget.*

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

RESOLUTION 823 (1984)¹

*on the activities of the International Committee
of the Red Cross (ICRC)*

The Assembly,

1. *Recalling* that the International Committee of the Red Cross has, since its inception, made every effort to come to the aid of the victims of armed conflicts;

* Austria, Belgium, Cyprus, Denmark, France, Federal Republic of Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Malta, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom.

¹ *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 28 June 1984.*

See Doc. 5241, report of the Committee on Migration, Refugees and Demography.

2. *Recalling* that:

i. ICRC activities are based on the four Geneva Conventions of 12 August 1949 for:

- the amelioration of the condition of the wounded and sick in armed forces in the field,
 - the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea,
 - the treatment of prisoners of war, and
 - the protection of civilian persons in time of war,
- and on their two Additional Protocols of 8 June 1977;

ii. all the member states of the Council of Europe are parties to those conventions;

3. *Recalling* its Recommendation 945 (1982), which urged the Committee of Ministers to invite the governments of the member states to speed up ratification of the two 1977 Protocols, and the decisions of that Committee to transmit that recommendation to the governments of the member states;

4. *Emphasizing* that the ICRC's mission goes beyond protection, to include assistance (medical, material and food) for the victims of armed conflicts, the wounded and prisoners of war, civilian internees, the inhabitants of occupied territories, displaced persons and political detainees;

5. *Emphasizing* the unceasing development of the activities of the ICRC, which is now represented in approximately fifty countries throughout Africa, the Americas, Asia and Oceania, the Middle East and Europe, a development which is a tragic reflection of an increasingly unsettled world;

6. *Commending* the principles underlying its activities and the entire Red Cross movement, in particular humanity, impartiality, neutrality, independence, universality, which allow it to win the confidence of all the parties concerned;

7. *Affirming* that the ICRC, by virtue of its specific tasks, is indispensable;

8. *Noting*:

i. that the ICRC's protection activities are often linked to relief operations exceeding its resources, and that the number of conflicts will probably increase;

- ii. that the ICRC is faced with increasingly complex problems as a result of the diversity and extension of conflicts;
- iii. that the financing of the ICRC's permanent activities depends on voluntary contributions of which Switzerland alone has until the present provided almost half;
- iv. that some emergency actions, also financed with voluntary contributions, are seriously short of funds;
- v. that all the High Contracting Parties to the Geneva Conventions share an equal burden of responsibility to ensure respect for the principle of humanitarian protection, which is the cornerstone of the said conventions, and that they must take into account the ICRC's independence in carrying out its tasks;
- vi. that this feeling of responsibility is not always shared by public opinion since the international action of the Red Cross is insufficiently known.

9. *Invites* the governments of member states:

- i. to make the international activities of the Red Cross better known among the public, in cooperation with their National Societies;
- ii. to substantially increase their regular annual contributions to the ICRC;
- iii. to help cover, through *ad hoc* contributions, the expenses incurred by emergency humanitarian activities;
- iv. to ratify, if they have not yet done so, the two Additional Protocols of 8 June 1977, or to accede to them;
- v. to provide the ICRC with any form of support likely to facilitate the discharge of its solidarity-dependent mission.

BOOKS AND REVIEWS

INTERNATIONAL HUMANITARIAN ASSISTANCE ¹

After proposing several definitions of basic concepts, such as “disaster” or “humanitarian assistance”, the author quotes a number of historical precedents of organizations devoted to humanitarian assistance, i.e. the Commission for Relief in Belgium (founded in 1914), UNRRA (United Nations Relief and Rehabilitation Administration, 1943-1948) and the International Relief Union (1927), and stresses the importance of the lessons learned from their experience for setting up disaster relief organizations, now or in the future.

In a concise second chapter he examines a particular category of interventions, namely Red Cross relief actions *in armed conflict*. The fundamental provisions of international humanitarian law are set forth, elucidating the categories of protected persons and the distinction between international and non-international armed conflicts. An evaluation is also made of the main questions currently arising in connection with international humanitarian law.

The author then goes on to review the provision of assistance to *refugees*, covering the period from 1949 to the present time, and underscores the essential role devolving on the United Nations Organization, through the Office of the UN High Commissioner for Refugees, whose aims and methods are carefully described.

The fourth chapter of the book is wholly devoted to the *legal bases* for humanitarian action. In his in-depth analysis of this subject, the author successively considers the delimitation of international relief operations by the principle of State sovereignty, the relevance of human rights to relief actions, the present acceptability of the doctrine of humanitarian intervention, and geopolitical factors in relief actions. The chapter also contains a very useful recapitulation of the United Nations legal bases for humanitarian action as they are laid down in the Charter.

The following three chapters give an account of all national, international or private organizations which play a leading or auxiliary part in

¹ P. Macalister-Smith: *International Humanitarian Assistance, Disaster Relief Actions in International Law and Organization*, Nijhoff, Dordrecht and Henry Dunant Institute, Geneva, 1958, 244 pp.

organizing and implementing disaster relief operations. Summarizing the origin, aims and methods of each of these organizations, the author also evaluates the results obtained.

Among the organizations thus considered there are the components of the Red Cross (ICRC, League and National Societies), United Nations bodies (UNICEF, UNDP, FAO, WHO, WFP...), intergovernmental entities such as the EEC and certain non-governmental organizations or other actors of a special nature such as the Order of Malta.

This section of the book ends by examining two questions of considerable practical importance, namely bilateral humanitarian assistance, and relief planning at the national level.

The next chapter deals with the fundamental question of relief co-ordination, and consists largely of an account of the origin, work (and difficulties!) of the principal body engaged in this activity, the Office of the United Nations Disaster Relief Co-ordinator (UNDRO).

Recalling the growing desire of the organizations involved for the adoption of an international instrument devoted exclusively to disaster relief (and the reticence of States as regards such an instrument...), the author concludes his analysis by examining several *ad hoc* drafts compiled by various organizations.

This review of all existing organizations, soundly documented by numerous bibliographical notes, reflects a very comprehensive knowledge of the problems encountered in relief work. Mr. Macalister-Smith's book will undoubtedly render invaluable service to the specialists for whom it is destined.

Antoine A. Bouvier

THE APPLICATION OF INTERNATIONAL HUMANITARIAN LAW PARTICULARLY IN MIXED CONFLICTS ¹

Amongst the most thorny problems presently encountered in the sphere of international humanitarian law must be considered mixed or "internationalized internal" conflicts, and these are the main subject of this book. By mixed conflicts is understood internal conflicts which, after intervention by foreign troops, take on little by little the characteristics of

¹ Martin Hess: *Die Anwendbarkeit des humanitären Völkerrechts, insbesondere in gemischten Konflikten*, Schulthess Polygraphischer Verlag, Zürich, 1985, 286 pp., in German.

an international conflict. Although isolated examples of foreign States intervening in internal conflicts are to be met with throughout history, such operations have multiplied over the past fifty years.

Before touching on the main subject of his report, Mr. Hess provides a very interesting examination of the origin and development of international humanitarian law. Then, in two very detailed and well-researched chapters, he studies the whole of the rules applicable during international and non-international armed conflicts, and successively examines the regulations of The Law of Geneva, The Law of The Hague, international customs and the practice of States.

When he comes to the core of his analysis, the author defines the concept of mixed conflicts and outlines the main reasons why these conflicts have multiplied: growing interdependence amongst States, polarization of the international community, the functional weakness of a number of newly emerged States.

Based fundamentally on the distinction between international and non-international conflicts, international humanitarian law is not completely satisfactory in application to the reality of a mixed conflict.

Having emphasized this deficiency, the author points out that there are three possibilities as regards the law applicable during such conflicts:

- (a) Full application of the provisions relative to international conflicts;
- (b) Full application of the provisions established for non-international conflicts;
- (c) Differentiated application: according to this theory one applies the provisions relative to international or non-international conflicts, depending on the legal status of the parties to the conflict (central State, intervening State(s), rebels).

While recognizing its drawbacks and shortcomings (in certain cases it could be difficult to decide whether a party should be considered as representing the central State or a rebel party), the author feels that it is the third one of these solutions (differentiated application) which entails the least number of difficulties.

In the last part, the author examines—on the basis of certain recent conflicts: Afghanistan, Angola, Chad, Kampuchea and Lebanon—what rules of international humanitarian law have been applied and mentions the legal classifications given by the various parties to the conflict and, as the case may be, by the ICRC.

When one considers the recent increase in the number of internationalized internal conflicts and the scarcity of works dealing with this question, the thesis by Mr. Hess—who distinguishes himself by the excellence of his critical apparatus—will most certainly render great service in the study, understanding and development of international humanitarian law.

Antoine A. Bouvier

ADDRESSES OF NATIONAL SOCIETIES

- AFGHANISTAN (Democratic Republic) — Afghan Red Crescent, Pul-i Artan, *Kabul*.
- ALBANIA (People's Socialist Republic) — Albanian Red Cross, 35, Rruga e Barrikadave, *Tirana*.
- ALGERIA (Democratic and People's Republik) — Algerian Red Crescent Society, 15 bis, boulevard Mohamed V, *Algiers*.
- ARGENTINA — Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, 3 Gusshausstrasse, Postfach 39, A-1041, *Vienna 4*.
- BAHAMAS — Bahamas Red Cross Society, P.O. Box N 91, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Cross Society, 34, Bangabandhu Avenue, *Dhaka 2*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, 1050 *Brussels*.
- BELIZE — The Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (People's Republic) — Red Cross of Benin, B.P. 1, *Porto Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, Independence Avenue, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 1, Boul. Biruzov, *Sofia 27*.
- BURKINA FASO — Burkina Faso Red Cross, P.O.B. 340, *Ouagadougou*.
- BURMA (Socialist Republic of the Union of) — Burma Red Cross, 42, Strand Road, Red Cross Building, *Rangoon*.
- BURUNDI — Red Cross Society of Burundi, rue du Marché 3, P.O. Box 324, *Bujumbura*.
- CAMEROON — Cameroon Red Cross Society, rue Henry-Dunant, P.O.B. 631, *Yaoundé*.
- CANADA — Canadian Red Cross, 95, Wellesley Street East, *Toronto, Ontario M4Y 1H6*.
- CAPE VERDE (Republic of) — Cruz Vermelha de Cabo Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross, B.P. 1428, *Bangui*.
- CHILE — Chilean Red Cross, Avenida Santa María 0150, Correo 21, Casilla 246V., *Santiago*.
- CHINA (People's Republic) — Red Cross Society of China, 53, Kanmien Hutung, *Peking*.
- COLOMBIA — Colombian Red Cross, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO (People's Republic of the) — Croix-Rouge congolaise, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rican Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Croix-Rouge de Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CUBA — Cuban Red Cross, Calle 23, No. 201 esq., N. Vedado, *Havana*.
- CZECHOSLOVAKIA — Czechoslovak Red Cross, Thunovska 18, 118 04 *Prague 1*.
- DENMARK — Danish Red Cross, Dag Hammarskjølds Allé 28, Postboks 2600, 2100 *København Ø*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorian Red Cross, Calle de la Cruz Roja y Avenida Colombia 118, *Quito*.
- EGYPT (Arab Republic of) — Egyptian Red Crescent Society, 29, El-Galaa Street, *Cairo*.
- EL SALVADOR — El Salvador Red Cross, 17 Av. Norte y 7.ª Calle Poniente, Centro de Gobierno, *San Salvador*, Apartado Postal 2672.
- ETHIOPIA — Ethiopian Red Cross, Ras Desta Damtew Avenue, *Addis Ababa*.
- FIJI — Fiji Red Cross Society, 193, Rodwell Road, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A, Box 168, 00141 *Helsinki 14/15*.
- FRANCE — French Red Cross, 17, rue Quentin-Bauchart, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMAN DEMOCRATIC REPUBLIC — German Red Cross in the German Democratic Republic, Kaitzerstrasse 2, DDR 801 *Dresden 1*.
- GERMANY FEDERAL REPUBLIC OF — German Red Cross in the Federal Republic of Germany, Friedrich-Ebert-Allee 71, 5300, *Bonn 1*, Postfach 1460 (D.B.R.).
- GHANA — Ghana Red Cross, National Headquarters, Ministries Annex A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 135*.
- GUATEMALA — Guatemalan Red Cross, 3.ª Calle 8-40, Zona 1, *Ciudad de Guatemala*.
- GUYANA — Guyana Red Cross, P.O. Box 351, Eve Leary, *Georgetown*.
- HAITI — Haiti Red Cross, place des Nations Unies, B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, 7.ª Calle, 1ª y 2.ª Avenidas, *Comayagüela D.M.*
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, *Budapest V*, Mail Add.: 1367 *Budapest 5*, Pf. 121.
- ICELAND — Icelandic Red Cross, Nátúni 21, 105 *Reykjavík*.
- INDIA — Indian Red Cross, 1, Red Cross Road, *New Delhi 110001*.
- INDONESIA — Indonesian Red Cross, Manggala Wanabakti, 9th floor, Jalan Gatot Subroto, P.O. Box 2009, *Djakarta*.
- IRAN — Iranian Red Crescent, Avenue Ostad Nejatollahi, Carrefour Ayatollah Taleghani, *Teheran*.
- IRAQ — Iraqi Red Crescent, Al-Mansour, *Baghdad*.
- IRELAND — Irish Red Cross, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, *Rome*.
- JAMAICA — Jamaica Red Cross Society, 76, Arnold Road, *Kingston 5*.
- JAPAN — Japanese Red Cross, 1-3, Shiba-Daimon 1-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Ammán*.
- KENYA — Kenya Red Cross Society, St. John's Gate, P.O. Box 40712, *Nairobi*.
- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, *Pyongyang*.
- KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San-Dong, *Seoul*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359, *Kuwait*.
- LAOS (Lao People's Democratic Republic) — Lao Red Cross, P.B. 650, *Vientiane*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru*.
- LIBERIA — Liberian National Red Cross, National Headquarters, 107 Lynch Street, P.O. Box 226, *Monrovia*.
- LIBYAN ARAB JAMAHIRIYA — Libyan Arab Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, *Vaduz*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, C.P. 404, *Luxembourg*.
- MALAGASY REPUBLIC — Red Cross Society of the Malagasy Republic, rue Patrice-Lumumba, *Antananarivo*.
- MALAWI — Malawi Red Cross, Hall Road, *Blantyre* (P.O. Box 30080, Chichiri, *Blantyre 3*).
- MALAYSIA — Malaysian Red Crescent Society, National HQ, No. 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 16-03*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MAURITANIA — Mauritanian Red Crescent Society, B.P. 344, Avenue Gamal Abdel Nasser, *Nouakchott*.

- MAURITIUS — Mauritius Red Cross, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Avenida Ejército Nacional N.º 1032, *México 10 DF*.
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of the Mongolian People's Republic, Central Post Office, Post Box 537, *Ulan Bator*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- NEPAL — Nepal Red Cross Society, Tahachal, P.B. 217, *Kathmandu*.
- NETHERLANDS — Netherlands Red Cross, P.O.B. 30427, *2500 GK The Hague*.
- NEW ZEALAND — New Zealand Red Cross, Red Cross House, 14 Hill Street, *Wellington 1*. (P.O. Box 12-140, *Wellington North*.)
- NICARAGUA — Nicaragua Red Cross, D.N. Apartado 3279, *Managua*.
- NIGER — Red Cross Society of Niger, B.P. 386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, Eko Akete Close, off St. Gregory Rd., P.O. Box. 764, *Lagos*.
- NORWAY — Norwegian Red Cross, Drammensveien 20 A, *Oslo 2*. Mail add.: *Postboks 2338, Solli, Oslo 2*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PAPUA NEW GUINEA — Red Cross of Papua New Guinea, P.O. Box 6545, *Boroko*.
- PANAMA — Panamanian Red Cross, Apartado Postal 668, Zona 1, *Panamá*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, *Asunción*.
- PERU — Peruvian Red Cross, Av. Camino del Inca y Nazarenas, Urb. Las Gardenias — Surco — Apartado 1534, *Lima*.
- PHILIPPINES — Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND — Polish Red Cross, Mokotowska 14, *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, I a 5, *Lisbon 3*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of the Socialist Republic of Romania, Strada Biserica Amzei, 29, *Bucarest*.
- RWANDA — Rwanda Red Cross, B.P. 425, *Kigali*.
- SAN MARINO — San Marino Red Cross, Palais gouvernemental, *San Marino*.
- SÃO TOMÉ AND PRÍNCIPE — Sociedade Nacional da Cruz Vermelha de São Tomé e Príncipe, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent, *Riyadh*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6A. Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, 15, Penang Lane, *Singapore 0923*.
- SOMALIA (Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.
- SOUTH AFRICA — South African Red Cross, 77, de Villiers Street, P.O.B. 8726, *Johannesburg 2000*.
- SPAIN — Spanish Red Cross, Eduardo Dato, 16, *Madrid 10*.
- SRI LANKA (Dem. Soc. Rep. of) — Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN — Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SWAZILAND — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN — Swedish Red Cross, Box 27316, *102-54 Stockholm*.
- SWITZERLAND — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, *3001 Berne*.
- SYRIAN ARAB REPUBLIC — Syrian Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA — Tanzania Red Cross Society, Upanga Road., P.O.B. 1133, *Dar es Salaam*.
- THAILAND — Thai Red Cross Society, Paribatra Building, Chulalongkorn Memorial Hospital, *Bangkok*.
- TOGO — Togolese Red Cross Society, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA — Tonga Red Cross Society, P.O. Box 456, *Nuku'alofa*.
- TRINIDAD AND TOBAGO — Trinidad and Tobago Red Cross Society, Wrightson Road West, P.O. Box 357, *Port of Spain, Trinidad, West Indies*.
- TUNISIA — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis*.
- TURKEY — Turkish Red Crescent, Yenisehir, *Ankara*.
- UGANDA — Uganda Red Cross, Plot 49, South Street, P.O. Box 494, *Kampala*.
- UNITED KINGDOM — British Red Cross, 9, Grosvenor Crescent, *London, S.W.1X 7EJ*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- U.S.A. — American National Red Cross, 17th and D. Streets, N.W., *Washington, D.C. 20006*.
- U.S.S.R. — Alliance of Red Cross and Red Crescent Societies, I. Tcheremushkinskii proezd 5, *Moscow, 117036*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado 3185, *Caracas*.
- VIET NAM (Socialist Republic of) — Red Cross of Viet Nam, 68, rue Bà-Triêu, *Hanoi*.
- WESTERN SAMOA — The Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN (Arab Republic) — Yemen Red Crescent Society, P.O. Box 1257, *Sana'a*.
- YEMEN (People's Democratic Republic) — The Yemen Red Crescent Society, P.O. Box 455, *Aden*.
- YUGOSLAVIA — Red Cross of Yugoslavia, Simina ulica broj 19, *11000 Belgrade*.
- ZAIRE — Red Cross of the Republic of Zaire, 41, av. de la Justice, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross, P.O. Box 50 001, 2837 Brentwood Drive, *Luksa*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.